

ORIGINAL

Genevieve Morelli
Executive Vice President
& General Counsel

March 17, 1998

Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M St., N.W.
Room 222
Washington, D.C. 20554Re: *Implementation of the Subscriber Carrier Selection Changes Provisions of
the Telecommunications Act of 1996, CC Docket No. 94-129*

Dear Ms. Salas:

The Board of Directors of the Competitive Telecommunications Association (CompTel), a nationwide association representing over 230 competitive telecommunications service providers and their suppliers, has adopted the attached set of principles and proposals designed to maximize choice and protect telephone consumers from 'slamming' and 'cramming.'

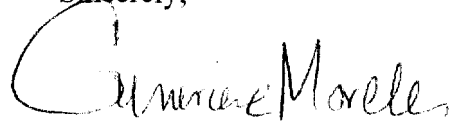
CompTel firmly maintains that slamming and cramming are abhorrent business practices and advocates that all carriers accept the responsibility to prevent slamming and cramming and to fully educate their customers, employees, and agents about these practices. The CompTel Board has adopted a 'zero tolerance' policy toward intentional slamming and cramming. This policy would require carriers to agree to investigate fully all allegations of slamming and cramming, to take appropriate action to remunerate consumers who have been victimized by any slamming or cramming, and to terminate any employees or agents who knowingly and wilfully engage in such practices.

CompTel supports uniform federal and state requirements, noting that requiring carriers to comply with different requirements for interstate and intrastate services, as well as different requirements among the states, will lead to customer confusion and increased costs of service. These increased costs will ultimately be borne by customers in the form of higher rates. In addition, CompTel recommends that penalties and fines be assessed only when it has been shown that a carrier has engaged in willful and intentional slamming or cramming.

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Please file this letter and the attachment in the above-referenced docket. If you have any questions regarding this matter, please contact the undersigned at 202/296-6650.

Sincerely,

A handwritten signature in cursive script, appearing to read "Genevieve Morelli". The signature is written in dark ink and is positioned above the printed name.

Genevieve Morelli

Attachment

cc: Chairman Kennard
Commissioner Tristani
Commissioner Ness
Commissioner Powell
Commissioner Furchtgott-Roth
Richard Metzger

COMPETITIVE TELECOMMUNICATIONS ASSOCIATION
(COMPTEL)

"Customer Choice" Principles

Competition in all telecommunications markets will bring to customers the benefits of lower prices, greater choices and improved service. For these benefits of competition to be fully realized, customer choice must be maximized and each customer's choice of carrier(s) and service(s) must be honored. In particular, the intentional, unauthorized transfer of a customer's local or long distance service provider (a.k.a. "slamming") or the intentional, unauthorized addition of services on a customer's bill (a.k.a. "cramming") are unacceptable practices. Consistent with the goal of maximizing choice and protecting customers, CompTel offers the following principles:

- CompTel advocates that carriers accept the responsibility to prevent slamming and cramming, and to fully educate their customers, employees, and agents on the practice and unacceptability of intentional slamming and cramming.
- CompTel supports a *zero tolerance* policy toward intentional slamming and cramming. A *zero tolerance* policy means that carriers agree to:
 - investigate fully all allegations of slamming and cramming;
 - take all appropriate action to make consumers whole in the event they are slammed or crammed;
 - terminate any employee or agent found to have knowingly and willfully engaged in slamming or cramming;
- CompTel advocates that all carriers adhere to or exceed all applicable federal and state laws and regulations designed to prevent slamming and cramming.
- CompTel advocates that carriers not engage in deceptive, inappropriate or "high pressure" sales tactics.
- Even the most reputable carriers sometimes *unintentionally* may initiate an unauthorized customer change through mistake or inadvertence, such as the misreading of a customer's telephone number or data entry error. Unintentional charges also may result from errors made by the executing local carrier. CompTel advocates that carriers re-double their efforts to minimize unintentional charges and to pursue all appropriate remedies when it is found that slamming or cramming is attributable to the executing local carrier.

COMPETITIVE TELECOMMUNICATIONS ASSOCIATION (COMPTEL)

Primary Carrier Changes & Unauthorized Charges

Competition in all telecommunications markets will bring to customers the benefits of lower prices, greater choices and improved service. For these benefits of competition to be fully realized, customer choice must be maximized and each customer's choice of carrier(s) and service(s) must be honored. In particular, the intentional, unauthorized transfer of a customer's local or long distance service provider (a.k.a. "slamming") or the intentional, unauthorized addition of services on a customer's bill (a.k.a. "cramming") are unacceptable practices. Consistent with the goal of maximizing choice and protecting customers, CompTel offers the following proposals:

- I. *Customers must be able to choose their local and long distance service providers without fear of unauthorized changes or charges.*
 - All telecommunications service providers that submit primary carrier changes ("PC changes") should be required to demonstrate affirmative customer verification for the change in one of the following ways:
 - a document signed by the authorized subscriber
 - verification by an unaffiliated third party
 - by appropriate electronic means
 - Service providers serving the dual role of submitting and executing carrier must (1) obtain affirmative customer verification and (2) provide such verification materials to the FCC, a state and/or any requesting carrier that sets forth reasonable cause for suspecting an improperly authorized PC change.
 - Customers who are subjected to an unauthorized PC change should pay only the authorized carrier's rates, and should be entitled to full reimbursement of the difference between any payments made and the payment that would have been made had the unauthorized change not occurred (including any fee paid to switch a customer's primary carrier(s)). Such reimbursement will be in addition to any other payments or damages that may be awarded by the appropriate government agency or court.
 - Customers who are subjected to cramming should not be held liable for those charges, nor should they be assessed late fees or risk having their service disconnected while the unauthorized charges are in dispute. Customers also should be entitled to full reimbursement for any unauthorized charges which they have paid.
- II. *Adequate information must be provided to customers in order that they can make informed choices when selecting telecommunications services and providers.*

- Providers using letters of agency (LOAs) for initiating and verifying PC changes must fully translate them into the same language as their associated promotional materials or oral descriptions and instructions.
- The availability of a primary carrier "freeze" ("PC freeze") where a customer may instruct his current local service provider *not* to execute a change in that customer's local and/or toll service provider(s) absent his explicit authorization can be a useful means for customers to protect themselves against slamming. In some instances, however, incumbent local exchange carriers (ILECs) have failed to adequately inform customers that the PC freeze applies to their local service and intraLATA toll calls, in addition to their interLATA toll calls. To the extent a PC freeze is permitted, customers should be required to affirmatively request this option for each type of service to which they subscribe. Customers also must be fully informed on how to override a PC freeze should they later want to switch carriers.

III. *Rules and laws regarding the carrier selection process should be competitively neutral.*

- The rules and laws governing the carrier selection process and unauthorized customer charges must apply to all telecommunications service providers, including ILECs.
- PC change information should be afforded customer proprietary network information (CPNI) protection, so that it is available only to carrier personnel tasked with executing PC change requests. In no case should an executing carrier's marketing and sales personnel have access to PC change information.
- Carriers should be liable for failures to properly process and execute PC change requests and they should be liable to the submitting carrier for revenues in the event of unreasonable delay between submission and execution of the PC change.
- ILECs should be prohibited from soliciting or enforcing PC freezes for local and intraLATA services until at least six months after those services become subject to competition in a particular market.
- ILECs should be held liable when found to have used PC freezes anti-competitively so as to discourage customer's from switching to competitive local and toll service providers.
- Access to information concerning whether a customer has selected a PC freeze must be made available to all carriers on nondiscriminatory terms and conditions.
- Where a carrier offers PC freeze options to its own customers, it must offer the same PC freeze options to customers pre-subscribed to other carriers.

IV. *Customers and providers alike must be able to rely on uniform, consistent, and fair requirements.*

- Federal and state rules and laws governing customer charges and unauthorized charges should be uniform and consistent on a national basis. Requiring providers to comply with different requirements for interstate and intrastate services, as well as different requirements among the states, will lead to customer confusion and increased costs of service. These increased costs of service ultimately will be borne by customers in the form of higher rates.
- Penalties and fines should be assessed only when it has been shown that a carrier has engaged in willful and intentional slamming and cramming. Penalties and fines should not be based on allegations of slamming or cramming.